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### **REMARKS**

In the Office Action, the Examiner noted that claims 1-9 and 11-45 are pending in the application and that claims 1-9 and 11-45 are rejected. In view of the following discussion, the Applicants submit that none of the claims now pending in the application are unpatentable under the judicially created doctrine of obviousness-type double patenting or under the provisions of 35 U.S.C. § 102 and 35 U.S.C. § 103. Thus, the Applicants believe that all of these claims are now in condition for allowance.

#### **I. REJECTION OF CLAIMS FOR OBVIOUSNESS-TYPE DOUBLE PATENTING**

Claims 1, 21, and 30 and claims 9, 31, and 33 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 and over claim 3 of co-pending Application no. 10/433,744, respectively.

The Applicants provisionally agree to file a terminal disclaimer under 37 C.F.R. 1.130(b) at the time the Applicants receive an indication from the Examiner that the pending claims, as amended herein, are otherwise in a condition for allowance with the exception of the double patenting rejection. Applicants submit that filing the requisite terminal disclaimer at such time fully responds to the Examiner rejection of claims 1, 9, 21, 30, 31 and 33 under the doctrine of obviousness-type double patenting.

#### **II. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103**

##### **Claims 1-3, 9, 16, 21, 22, 24, 25, and 29**

The Examiner rejected claims 1-3, 9, 16, 21, 22, 24, 25, and 29 as being unpatentable over the Ehreth et al. patent (United States patent 6,286,142, issued September 4, 2001, hereinafter Ehreth) in view of the Schultheiss patent (United States patent 6,208,384, issued March 27, 2001, hereinafter Schultheiss) in further view of Hamlin patent (United States patent 5,574,964, issued November 12, 1996, hereinafter Hamlin). The rejection is respectfully traversed.

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Ehreth teaches a system comprising a communication controller, a plurality of televisions, and a plurality of corresponding channel selection and signaling units. The system functions by having the channel selection and signaling unit receiving a channel select command from a remote control that is associated with a particular television. The channel selection and signaling unit then sends a signal at a particular upstream frequency to an upstream signaling receiver within a communication controller. A unique upstream frequency is specifically designated at each "user selectable setting" located within each channel selection and signaling unit. The communication controller receives a video signal from a telecommunications network and modulates the signal to a unique downstream frequency that is associated with the original upstream frequency of the channel selection and signal unit. The communication controller then transmits the video signal over a video signal distribution network to a plurality of channel selection and signaling units at the designated downstream frequency. The particular channel selection and signaling unit that is configured to receive the video signal at the appropriate downstream frequency receives the signal and subsequently transmits a television signal to its corresponding television.

Thus, for every television (or set of televisions at a remote site), a channel selection and signaling unit directly receives a channel select command from the remote control and transmits a signal over the video signal distribution network to the communication controller at a designated upstream frequency. The communication controller responds by modulating the desired video information and transmits it to the appropriate channel selection and signaling unit on a particular downstream frequency. Because each channel selection and signaling unit for each television (or set of televisions at a remote site) has a separate upstream frequency and downstream frequency, independent control for each television set (or remote site) is possible (see Ehreth, Abstract and Figure 1).

Schultheiss discloses a system that provides information to a television using a personal computer (PC). More specifically, a unified television/PC remote control transmits commands to the PC via radio frequency (RF) signals. Television commands

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may be directly transmitted to the television using infrared signals or indirectly via the PC using RF signals.

Hamlin discloses a signal distribution system having a converter with input terminals for receiving signals of varying configurations and an output terminal for transmitting converted signals. The input signals received by the converter are each converted into a converted signal frequency component of a common bus signal, which is then transmitted by the converter. The converter output terminal transmits the common bus signal on a communication bus. The communication bus is coupled to at least one interface pod for receiving the common bus signal and re-transmitting a desired converted signal.

The Examiner's attention is directed to the fact that Ehreth, Schultheiss, and Hamlin (either singly or in any permissible combination) fail to disclose or suggest a residential gateway that is capable of directly receiving channel select commands from remote control devices associated with a plurality of televisions, as claimed in Applicants' independent claims 1, 9 and 21. Specifically, Applicants' claims 1, 9, and 21, as amended, positively recite:

1. A method of receiving, decoding and distributing video signals from telecommunications network to a plurality of televisions locatable in at least two separate locations via a residential gateway, the method comprising:  
receiving channel select commands from remote control devices associated with the plurality of televisions, wherein at least a first channel select command of said channel select commands from an optical remote control device of said remote control devices associated with a television of said plurality of televisions located in close proximity to the residential gateway is received directly by a receiver within the residential gateway, wherein the residential gateway is a unitary device;  
receiving a video signal from the telecommunications network;  
transmitting the video signal to a video processor;  
processing the video signal to produce television signals corresponding to the channel select commands; and  
transmitting the television signals to the respective televisions. (Emphasis added)

9. A residential gateway for distributing video signals to a plurality of televisions locatable within at least two separate locations, said residential gateway comprising:  
a receiver for directly receiving a first channel select command of a plurality of channel select commands from a first remote control device of a plurality of remote control devices associated with a first television of said plurality of televisions, wherein said receiver is an optical receiver, the first channel select command is an optical signal, the first remote control device is an optical remote control device, and the first television is located in close proximity to the residential gateway, wherein the residential gateway is a unitary device and

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is capable of directly receiving said plurality of channel select commands from said plurality of remote control devices associated with said plurality of televisions;

a remote control processor for processing said plurality of channel select commands;

a network interface module for receiving signals, including video signals, from a telecommunications network, wherein the received video signals correspond to the plurality of channel select commands;

a video processor for processing the received video signals to produce television signals; and

a transmitter for transmitting the received video signals to said video processor.  
(Emphasis added)

21. A method for receiving and decoding signals from a telecommunications network at a residential gateway, and transmitting the decoded signals from the residential gateway to a plurality of devices including multiple televisions, the method comprising:

connecting each of the plurality of devices and the telecommunications network to the residential gateway so that all of the communications between the devices and the telecommunications network must pass through the residential gateway, wherein the residential gateway is a unitary device;

selecting televisions to view for the multiple televisions by programming associated remote control devices to transmit channel select commands, wherein a first channel select command is received from a first remote control device, associated with a first television, directly by a receiver within the residential gateway, wherein the first television is located in close proximity to the residential gateway and connected directly to the residential gateway;

transporting the channel select commands to a network interface module;

transmitting the channel select commands from the network interface module to the telecommunications network;

receiving video signals from the telecommunications network at the network interface module;

transmitting the video signals to a video processor;

processing the video signals into television signals corresponding to the channel select commands; and

transmitting the television signals to the corresponding televisions including the first television. (Emphasis added)

As recited in claims 1, 9 and 21 above, the Applicants' invention teaches a method that describes a unitary residential gateway device that directly receives channel select commands from remote control devices associated with the plurality of televisions. The Applicants cite page 18, lines 11-13 of the specification for support. Similarly, Figures 3 and 5 depict the residential gateway as a single, unitary device.

As mentioned above, the residential gateway is able to directly receive channel select commands from a plurality of remote controls, wherein each remote control is associated with a particular television (or remote site). After receiving a channel select command from a particular remote control, the residential gateway processes the necessary video signals obtained from a telecommunications network into a television

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signal. This signal is then subsequently transmitted to a corresponding television unit. A single residential gateway unit is capable of accomplishing this task for a plurality of televisions and corresponding remote controls.

In contrast, the combination of Ehreth, Schultheiss, and Hamlin does not teach or suggest this novel approach. The Examiner introduced Ehreth but conceded that the reference failed to disclose the channel select command is received directly by a receiver within the residential gateway. In an attempt to remedy this deficiency, the Examiner introduced Schultheiss. However, the Examiner similarly conceded that neither "Ehreth nor Schultheiss discloses an optical remote control device sending channel select commands to a television located in close proximity to the residential gateway being received directly" (see Office Action, page 6). Finally, the Examiner introduced Hamlin in an attempt to remedy this deficiency.

The alleged combination does not teach a residential gateway that directly receives signals as alleged by the Examiner. Rather, the personal computer (the alleged gateway) described in Schultheiss receives signals from an external network and subsequently transmits data as UHF signals to a single television unit (see Schultheiss, column 5, lines 10-12) per the channel select commands of a corresponding remote control. More importantly, Schultheiss does not disclose or even suggest that this personal computer can be configured to receive signals from multiple remote controls and similarly, distribute data to multiple television units associated with the multiple remote controls.

The Applicants submit that there is no suggestion or motivation to combine Ehreth, Schultheiss, and Hamlin. The Applicants contend that Schultheiss teaches away from Ehreth since the personal computer is utilized for its processing power and memory in order to download and process auxiliary services that are intended for a television (see Schultheiss, Abstract). Notably, the PC is being used to substitute for a variety of accessories due to the proliferation of additional TV services (see Schultheiss, column 1, lines 30-40). Schultheiss does not teach or suggest that these auxiliary services include the reception of multiple select commands from a plurality of remote

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controls in order to transmit separate television signals to a plurality of corresponding television units.

Even if these references could somehow be operably combined (and the Applicants submit that they cannot be operably combined), the combination would still provide a gateway that could not directly receive a plurality of channel select commands from remote control devices associated with the plurality of televisions. The PC as disclosed in Schultheiss can only receive channel select commands from a single remote control and can only transmit television signals to a single television unit. Although the PC in Schultheiss can directly receive channel select commands from a single remote control, it would not be able to transmit a television signal to a plurality of televisions in a manner described by Ehreth since the PC itself, as disclosed in Schultheiss, is required to transmit the signal to the television unit.

Moreover, the system in Ehreth is wholly dependent on a channel selection and signaling unit to both receive a channel select command and provide a unique television signal to a particular television. This is due to the unique upstream and downstream frequencies designated by the channeling selection and signaling unit (specifically, the "user selectable setting") that enables the channeling selection and signaling unit to independently request and receive a specific television signal for an associated television (or remote site). Since the reception of a desired television signal by a television in the Ehreth system is dependent on an associated channel selection and signaling unit receiving the desired video signal on a unique downstream frequency that is explicitly designated by the channel selection and signaling unit, this combination of Ehreth and Schultheiss would be impractical. Specifically, the fictional combination would require a PC to be located in close proximity to each and every television unit that needs to receive a signal. Thus, a plurality of PCs (i.e., alleged residential gateways) would be required for receiving channel select commands from a plurality of remote controls and ultimately transmitting the television signals to the corresponding plurality of televisions. This proposed fictional combination is entirely inconsistent with the Applicants' invention as set forth in claim 1.

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Likewise, Hamlin does not teach or suggest a unitary residential gateway device that can directly receive multiple channel selection commands from a plurality of remote controls associated with a plurality of televisions. Hamlin discloses a signal distribution system having a converter with input terminals for receiving signals of varying configurations and an output terminal for transmitting converted signals. Similarly, Hamlin was presented by the Examiner as disclosing an optical remote control device for sending channel select commands to a television located in close proximity to the residential gateway. Thus, Hamlin does not bridge the substantial gap between the Applicants' invention and the combination of Ehreth and Schultheiss.

Therefore, the Applicants submit that the combination of Ehreth, Schultheiss, and Hamlin does not teach all of the elements as set forth in claim 1 of the present invention. Consequently, the Applicants respectfully submit that the present invention as set forth in claims 1, 9, and 21 are not made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin and fully satisfy the requirements of 35 U.S.C. § 103.

Dependent claims 2-3, 16, 22, 24-25, and 29 depend, either directly or indirectly, from claims 1, 9, and 21 and recite additional features thereof. As such and for the exact same reasons set forth above, the Applicants submit that claims 2-3, 16, 22, 24-25, and 29 are also not made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin. Therefore, the Applicants submit that these dependent claims also fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

Claims 4-8, 11, 14, 15, 17, 20, 23, 26-28, 30-33, and 36

The Examiner rejected claims 4-8, 11, 14, 15, 17, 20, 23, 26-28, 30-33, and 36 as being unpatentable over Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin (United States patent 5,500,691, issued March 19, 1996, hereinafter Martin). The rejection is respectfully traversed.

Ehreth, Schultheiss, and Hamlin have been discussed above.

Martin teaches a video system that includes a receiver that generates a remote

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identifier setup display on a television monitor and further including a remote control unit having a radio frequency transmitter and an infrared transmitter. The video system enables a user to enter a remote control identifier for the radio frequency transmitter through the remote identifier setup display using the infrared transmitter. The receiver initially ignores remote command signals received from the radio frequency transmitter until the remote control identifier is entered (See Martin, Abstract).

The Examiner's attention is directed to the fact that Ehreth, Schultheiss, Hamlin, and Martin (either singly or in any permissible combination) fail to disclose or suggest a residential gateway that is capable of directly receiving channel select commands from remote control devices associated with a plurality of televisions, as claimed in Applicants' independent claims 1, 9, 21, 30, 31, and 33. Claims 1, 9, and 21 have been reproduced above. The Applicants' claims 30, 31, and 33, as amended, positively recite:

30. A method for receiving signals from a telecommunications network, decoding the signals, and transmitting the decoded signals from a residential gateway to a plurality of devices including multiple televisions, the method comprising:

connecting the residential gateway to the telecommunications network and to at least one television that is remotely located from the residential gateway and to a television that is located in close proximity to the residential gateway and connected directly thereto, wherein the residential gateway is a unitary device and is capable of directly receiving channel select commands from a plurality of remote control devices associated with said multiple televisions;

selecting a television channel to view for the at least one television that is remotely located and/or selecting a television channel to view for the television that is located in close proximity, wherein the selecting a channel to view for the at least one television that is remotely located is performed by programming associated optical remote control devices, wherein the optical remote control devices transmit channel select commands as optical signals to optical conversion devices connected to the at least one television, the optical conversion devices receive the optical signals, convert the optical signals to RF signals and transmit the RF signals over media to a remote antennae module which demodulates the RF signals and extracts the portion corresponding to the channel select commands, wherein the selecting a television channel to view for the television that is located in close proximity is performed by programming an associated optical remote control device that transmits channel select commands directly to the residential gateway;

transmitting the channel select commands to the telecommunications network;  
receiving a video signal from the telecommunications network;  
processing the video signal to produce television signals corresponding to the channel select commands; wherein the processing is performed by a video processor; and transmitting the television signals to the at least one television. (Emphasis added)

31. A residential gateway for receiving and decoding signals from a

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telecommunications network and transmitting decoded signals to a plurality of devices including multiple televisions; the residential gateway comprising:  
a network interface module for transmitting upstream signals, including channel select commands, to the telecommunications network and receiving downstream signals, including video signals, from the telecommunications network;  
a video processor for processing the video signals into at least one television signal corresponding to at least one channel select command, and transmitting the at least one television signal to the corresponding television;  
a remote control module for processing the channel select commands, wherein at least one of the channel select commands is extracted from a RF signal received from an optical conversion device connected to a remotely located television; and  
a wireless receiver for receiving wireless channel select commands directly from a first remote control device associated with a first television that is located in close proximity to the residential gateway, wherein the residential gateway is a unitary device and is capable of directly receiving channel select commands from a plurality of remote control devices associated with said multiple televisions, and connected directly thereto. (Emphasis added)

33. A system including a residential gateway for receiving and decoding signals from a telecommunications network and transmitting the decoded signals to a plurality of devices including multiple televisions, the system comprising:

a residential gateway located in close proximity to and connected to a television, said residential gateway including a network interface module for transmitting upstream signals, including channel select commands, to the telecommunications network and receiving downstream signals, including video signals, from the telecommunications network, wherein the residential gateway is a unitary device and is capable of directly receiving channel select commands from a plurality of remote control devices associated with said multiple televisions;

a video processor, located the residential gateway, for processing the video signals to generate television signals corresponding to said channel select commands, and transmitting the television signals to the corresponding televisions;

at least one optical conversion device located in close proximity to and connected to a remotely located television, said optical conversion device receiving an optical signal, including a channel select command, from an optical remote control device associated with the remotely located television, converting the optical signal to an RF signal, and modulating the RF signal over media, wherein the television located in close proximity to the residential gateway is not connected to an optical conversion device; and  
a remote antennae module, connected to the media and the residential gateway, for demodulating the RF signal, extracting the portion corresponding to the channel select command, and transmitting the channel select command to the residential gateway. (Emphasis added)

The deficiency left by the combination of Ehreth, Schultheiss, and Hamlin is not bridged by Martin. The Applicants contend that Martin does not teach or suggest a unitary residential gateway device that can directly receive multiple channel selection commands from a plurality of remote controls associated with a plurality of televisions, as claimed in independent claims 1, 9, 21, 30, 31, and 33. Therefore, the Applicants

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submit that independent claims 1, 9, 21, 30, 31, and 33 fully satisfy the requirements of 35 U.S.C. § 103 and is patentable thereunder.

Dependent claims 4-8, 11, 14, 15, 17, 20, 23, 26-28, 32 and 36 depend, either directly or indirectly, from claims 1, 9, 21, 30, 31, and 33 and recite additional features thereof. As such and for the exact same reasons set forth above, the Applicants submit that claims 4-8, 11, 14, 15, 17, 20, 23, 26-28, 32 and 36 are also not made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin. Therefore, the Applicants submit that these dependent claims also fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

Claims 12, 13, 34, and 35

The Examiner rejected claims 12, 13, 34, and 35 as being unpatentable over the Ehreth in view of Schultheiss in further view of Hamlin in further view of in further view of Martinez (United States patent 5,812,184, issued September 22, 1998, hereinafter Martinez). The rejection is respectfully traversed.

Ehreth, Schultheiss, Hamlin, and Martin are discussed above.

The Examiner alleges that Martinez discloses a bias switch turning on and off an oscillator, which in turn produces a modulated radio frequency signal that turns on and off in response to the switch.

The Applicants submit that Martinez does not bridge the substantial gap existing between the Applicants' invention and the combination of Ehreth, Schultheiss, Hamlin, and Martin. More specifically, the Applicants contend that Martinez does not teach, suggest, or mention a residential gateway that is a unitary residential gateway device that is capable of directly receives channel select commands from remote control devices associated with the plurality of televisions as set forth in claims 9 and 33. Thus, the Applicants submit that claims 9 and 33 would not be made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin in further view of Martinez.

Since claims 12, 13, 34, and 35 depend, either directly or indirectly, from claims 9 and 33 and recite additional features thereof, the Applicants submit that claims 12, 13,

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34, and 35 are also not made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin in further view of Martinez. Therefore, the Applicants submit that claims 12, 13, 34, and 35 also fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

#### Claims 18 and 37

The Examiner rejected claims 18 and 37 as being unpatentable over Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin in further view of Budow et al. (United States patent 5,521,631, issued May 28, 1996, hereinafter Budow). The rejection is respectfully traversed.

Ehreth, Schultheiss, Hamlin, and Martin are discussed above. The Examiner alleges that Budow discloses a diplexer that is used to pass television signals directly to the television unit.

The Applicants submit that Budow does not bridge the substantial gap existing between the Applicants' invention and the combination of Ehreth, Schultheiss, Hamlin, and Martin. More specifically, the Applicants contend that Budow does not teach, suggest, or mention a residential gateway that is a unitary residential gateway device that directly receives channel select commands from remote control devices associated with the plurality of televisions as set forth in claims 9 and 33. Thus, the Applicants submit that claims 9 and 33 would not be made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin in further view of Budow.

Since claims 18 and 37 depend, either directly or indirectly, from claims 9 and 33 and recite additional features thereof, the Applicants submit that claims 18 and 37 are also not made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin in further view of Budow. Therefore, the Applicants submit that claims 18 and 37 also fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

#### Claims 19 and 38

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The Examiner rejected claims 18 and 37 as being unpatentable over the Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin in further view of Budow in further view of Flickinger et al. (United States patent 5,901,340, issued May 4, 1999, hereinafter Flickinger). The rejection is respectfully traversed.

Ehreth, Schultheiss, Hamlin, Martin, and Budow are discussed above. The Examiner alleges that Flickinger discloses a diplexer that is used to pass television signals directly to the television unit.

The Applicants submit that Flickinger does not bridge the substantial gap existing between the Applicants' invention and the combination of Ehreth, Schultheiss, Hamlin, Martin, and Budow. More specifically, the Applicants contend that Flickinger does not teach, suggest, or mention a residential gateway that is a unitary residential gateway device that directly receives channel select commands from remote control devices associated with the plurality of televisions as set forth in claims 9 and 33. Thus, the Applicants submit that claims 9 and 33 would not be made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin in further view of Budow in further view of Flickinger.

Since claims 19 and 38 depend, either directly or indirectly, from claims 9 and 33 and recite additional features thereof, the Applicants submit that claims 19 and 38 are also not made obvious by the teaching of Ehreth in view of Schultheiss in further view of Hamlin in further view of Martin in further view of Budow in further view of Flickinger. Therefore, the Applicants submit that claims 19 and 38 also fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

### **III. REJECTION OF CLAIMS 39, 41-44 UNDER 35 U.S.C. § 102**

The Examiner rejected claims 39 and 41-44 as being anticipated by the Martinez patent (United States patent 5,812,184, issued September 22, 1998, hereinafter Martinez). The rejection is respectfully traversed.

Martinez teaches a bidirectional cable television system that provides for the transmission of signals from cable subscribers downlink in the same direction as the ensemble of television channels which the cable television system is already

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constructed to deliver. The subscriber signals may be transmitted over the cable in the blanking intervals of a cable television channel (see Martinez, Abstract). The Examiner alleges that Martinez discloses an optical conversion device that comprises a bias switch. The Applicants respectfully disagree.

The Applicants submit that Martinez does not teach each and every element of the Applicants' invention as recited in claim 39. Namely, Martinez does not teach or suggest a bias switch that turns on and off in response to a pulse train. The Examiner alleges that the AND gate in Martinez is tantamount to the bias switch in the Applicants' present invention. The Applicants submit that the AND gate is not the same as the bias switch. Specifically, the bias switch in the present invention is completely dependent to the turning on and off of the pulse train generated by the optical receiver. Conversely, the AND gate, as disclosed in Martinez, is dependent on the viewer response formatted by a microprocessor and a gating signal which itself is dependent on specific time slots deemed appropriate by the TDM slot selector. Thus, the bias switch in the present invention is dependent on a single pulse train, whereas the AND gate in Martinez is dependent on a plurality of factors.

Since Martinez does not teach a bias switch that turns on and off in response to a pulse train, Martinez does not teach each and every element of Applicants' invention recited in claim 39. Similarly, claim 44 contains a similar limitation regarding the bias switch as set forth in claim 39. Therefore, the Applicants contend that claims 39 and 44 are not anticipated by Martinez and, as such, fully satisfy the requirements of 35 U.S.C. § 102.

Dependent claims 41-43 depend, either directly or indirectly, from claim 39 and recite additional features thereof. As such and for the exact same reasons set forth above, the Applicants submit that claims 41-43 are not anticipated by the teachings of Martinez. Therefore, the Applicants submit that claims 41-43 fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

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#### **IV. REJECTION OF CLAIMS 40 AND 45 UNDER 35 U.S.C. § 103**

Claims 40 and 45 stands rejected as being obvious in view of the Martinez patent (United States patent 5,812,184, issued September 22, 1998, hereinafter Martinez). The Applicants respectfully traverse the rejection.

The Examiner's attention is directed to the fact that Martinez in view of the Official Notice fails to disclose or suggest a bias switch that turns on and off in response to a pulse train as claimed in Applicants' independent claims 39 and 44, from which claims 40 and 45 depend, respectively. As discussed above, Martinez only teaches an AND gate which the Applicants submit is not tantamount to a bias switch (i.e., bias switch in the present invention is dependent on a single pulse train, whereas the AND gate in Martinez is dependent on a plurality of factors). Therefore, the Applicants submit that independent claims 39 and 44 fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

Since claims 40 and 45 depend, either directly or indirectly, from claims 39 and 44 and recite additional features thereof, the Applicants submit that claims 40 and 45 are also not made obvious by the teaching of Martinez. Therefore, the Applicants submit that claims 40 and 45 also fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

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### CONCLUSION

The Applicants respectfully submit that none of the claims presently in the application are unpatentable under the judicially created doctrine of obviousness-type double patenting or under the provisions of 35 U.S.C. § 102 and 35 U.S.C. § 103. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

10/27/04  
Date

  
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